IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

WP(C).No. 21284 of 2006(H)
---
OS.255/2001 of MUNSIFF COURT, MANJERI
.....

PETITIONER:
---

THARAKAN IBRAHIM, S/O. VEERAN,
AGED 54 YRS, THRIKKALANGODE AMSOM AND DESOM,
ERNAD TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.M.A.ABDUL HAKHIM

RESPONDENT:
---

M/S. UDAYA TRADERS,
MANJERI REPRESENTED BY ITS MANAGING PARTNER,
K.MOHAMMED ASLAM, S/O. MOHAMMEDALI, AGED 32 YRS,
MANJERI AMSOM DESOM, ERNAD TALUK,
MALAPPURAM DISTRICT.

BY ADV. SRI.R.RAJESH KORMATH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

# Appendix

Petitioner's Exts:

Ext.P1 A photostat copy of the order of attachment before judgment.

Ext.P2 A photostat copy of the affidavit and petition for stay and the orders therein dated 29.3.2006 and 6.4.2006.

**M.N.Krishnan, J.**

**==========**

**W.P(C).No.21284 of 2006**

**==========**

**Dated this the 25th day of October, 2007.**

**JUDGMENT**

This Writ Petition is filed to declare that in view of the attachment before judgment of the properties the order passed by the Appellate Court to furnish security for Rs.1,25,000/- is unwarranted and unnecessary. Learned counsel for the respondent has taken me through various documents and it is seen that in spite of the order of attachment, the writ petitioner has sold a portion of the property to the wife and that was again assigned to third person. So, the conduct of the writ petitioner cannot be said to be above par.

2. I am also informed that ultimately the assignee has got himself impleaded in the Execution Petition. Therefore, one cannot find fault with the Apex Court by directing furnishing of security by the writ petitioner herein. Hence, the order does not call for interference and therefore the Writ Petition is dismissed. But I am informed that the balance is only about Rs.8,000/- and

there is an inclination for the judgment debtor to wipe off the liability. In order to enable him to make payment and avoid difficulties to all, I direct the court below not to proceed with the sale upto 30.11.2007 and in case the amount is not paid, the court can proceed with the matter in accordance with law.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

ess 25/10